

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
GREGORY J. MARCINSKI,

Plaintiff,

-against-

RBS CITIZENS BANK, N.A. and  
MERRICK BANK CORPORATION,

Defendants.  
-----x

USDC SDNY

DOCUMENT

ELECTRONICALLY FILED

DOC#

DATE FILED: 11/21/13

Case No. 13 Civ. 6022 (LGS)

**AMENDED COMPLAINT**

**[Jury Trial Demanded]**

COMES NOW Plaintiff, Gregory J. Marcinski, pro se, and for his Amended Complaint against Defendants, RBS Citizens Bank, N.A. and Merrick Bank Corporation, states and alleges as follows:

**INTRODUCTION**

1. This is an action seeking redress from unlawful credit practices engaged in by the Defendants. Specifically, Plaintiff alleges violations of the Fair Credit Reporting Act, 15 U.S.C. § 1681, et seq. ("FCRA").

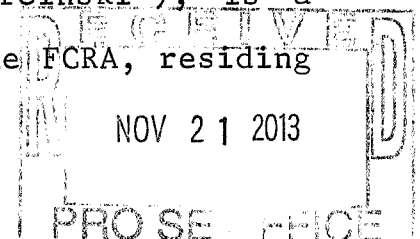
**JURISDICTION AND VENUE**

2. The Court has jurisdiction over the parties to this case and the subject matter thereof pursuant to 15 U.S.C. § 1681p and 28 U.S.C. § 1331.

3. Venue in this district is proper because the Plaintiff resides within the district. In addition, each Defendant conducts business within the district.

**PARTIES**

4. Plaintiff, Gregory J. Marcinski ("Marcinski"), is a natural person and a "consumer" as defined in the FCRA, residing in Otisville, New York.



5. Defendant, RBS Citizens Bank, N.A. ("RBS Citizens"), is a national association bank, located at One Citizens Plaza, Providence, Rhode Island 02903. RBS Citizens issues consumer credit cards and is a "furnisher of credit information" as defined in the FCRA.

6. Defendant, Merrick Bank Corporation ("Merrick"), is a bank corporation, located at 10701 South Jordan Gateway, Suite 200, South Jordan, Utah 84095. Merrick issues consumer credit cards and is a "furnisher of credit information" as defined in the FCRA.

**COUNT I - RBS CITIZENS, BANK, N.A.**

7. On April 4, 2013, Marcinski obtained a copy of his credit report from Equifax Information Services, LLC ("Equifax"), a national credit reporting agency.

8. The aforesaid credit report includes a delinquent credit card account reported by RBS Citizens.

9. Marcinski has never applied for, obtained, or used any credit card account issued by RBS Citizens.

10. On June 24, 2013, Marcinski transmitted a request for investigation to Equifax disputing the debt reported by RBS Citizens on the basis that it was a fraudulent account established using his personal identification information without authorization. Marcinski included documentation of his identity and the fact that he was incarcerated when the account was opened and used.

11. Upon information and belief, Equifax provided all information relevant to Marcinski's dispute to RBS Citizens.

12. On July 25, 2013, Equifax informed Marcinski that RBS Citizens verified the account belonged to him and it would remain in his credit record.

13. RBS Citizens violated 15 U.S.C. § 1681s-2(b)(1)(A) by failing to conduct an adequate investigation of Marcinski's dispute submitted to Equifax for investigation on June 24, 2013.

14. RBS Citizens violated 15 U.S.C. § 1681s-2(b)(1)(C) by reporting inaccurate, incomplete, false, and misleading results of its purported investigation of Marcinski's dispute submitted to Equifax for investigation on June 24, 2013.

15. RBS Citizens violated 15 U.S.C. § 1681s-2(b)(1)(D) by failing to notify Equifax, in response to Marcinski's dispute submitted to Equifax for investigation on June 24, 2013, that the information it reported for inclusion in his credit report was inaccurate, incomplete, misleading, and false.

16. The conduct of RBS Citizens was willful, in that it was part of a policy, practice, and custom.

17. As a direct and proximate result of the unlawful conduct of RBS Citizens, Marcinski suffered damages including damage to credit score and credit reputation, harrassment, humiliation, emotional distress, and financial loss.

WHEREFORE, Marcinski respectfully moves for Judgment in his favor and against RBS Citizens including the following:

A. Actual damages in an amount determined at trial pursuant to 15 U.S.C. § 1681n(a)(1)(A) or, in the alternative, 15 U.S.C. § 1681o(a)(1);

B. Punitive damages in an amount determined at trial pursuant to 15 U.S.C. § 1681n(a)(2);

C. Attorney's fees and costs incurred pursuant to 15 U.S.C. § 1681n(a)(3) and/or 15 U.S.C. § 1681o(a)(2); and

D. Any further relief the Court may deem just and proper under the circumstances.

**COUNT II - MERRICK BANK CORPORATION**

18. On April 4, 2013, Marcinski obtained a copy of his credit report from Equifax Information Services, LLC ("Equifax"), a national credit reporting agency.

19. The aforesaid credit report includes a delinquent credit card account reported by Merrick.

20. Marcinski has never applied for, obtained, or used any credit card account issued by Merrick.

21. On June 24, 2013, Marcinski transmitted a request for investigation to Equifax disputing the debt reported by Merrick on the basis that it was a fraudulent account established using his personal identification information without authorization. Marcinski included documentation of his identity and the fact that he was incarcerated when the account was opened and used.

22. Upon information and belief, Equifax provided all information relevant to Marcinski's dispute to Merrick.

23. On July 25, 2013, Equifax informed Marcinski that RBS Citizens verified the account belonged to him and it would remain in his credit record.

24. Merrick violated 15 U.S.C. § 1681s-2(b)(1)(A) by failing to conduct an adequate investigation of Marcinski's

dispute submitted to Equifax for investigation on June 24, 2013.

25. Merrick violated 15 U.S.C. § 1681s-2(b)(1)(C) by reporting inaccurate, incomplete, false, and misleading results of its purported investigation of Marcinski's dispute submitted to Equifax for investigation on June 24, 2013.

26. Merrick violated 15 U.S.C. § 1681s-2(b)(1)(D) by failing to notify Equifax, in response to Marcinski's dispute submitted to Equifax for investigation on June 24, 2013, that the information it reported for inclusion in his credit report was inaccurate, incomplete, misleading, and false.

27. The conduct of Merrick was willful, in that it was part of a policy, practice, and custom.

28. As a direct and proximate result of the unlawful conduct of Merrick, Marcinski suffered damages including damage to credit score and credit reputation, harrassment, humiliation, emotional distress, and financial loss.

WHEREFORE, Marcinski respectfully moves for Judgment in his favor and against Merrick including the following:

A. Actual damages in an amount determined at trial pursuant to 15 U.S.C. § 1681n(a)(1)(A) or, in the alternative, 15 U.S.C. § 1681o(a)(1);

B. Punitive damages in an amount determined at trial pursuant to 15 U.S.C. § 1681n(a)(2);

C. Attorney's fees and costs incurred pursuant to 15 U.S.C. § 1681n(a)(3) and/or 15 U.S.C. § 1681o(a)(2); and

D. Any further relief the Court may deem just and proper under the circumstances.

COUNT III - RBS CITIZENS BANK, N.A.

29. On August 6, 2013, Marcinski obtained a copy of his credit report from Trans Union, LLC ("Trans Union"), a national credit reporting agency.

30. The aforesaid credit report includes a delinquent credit card account reported by RBS Citizens.

31. Marcinski has never applied for, obtained, or used any credit card account issued by RBS Citizens.

32. On August 15, 2013, Marcinski transmitted a request for investigation to Trans Union disputing the debt reported by RBS Citizens on the basis that it was a fraudulent account established using his personal identification information without authorization. Marcinski included documentation of his identity and the fact that he was incarcerated when the account was opened and used.

33. Upon information and belief, Equifax provided all information relevant to Marcinski's dispute to RBS Citizens.

34. On September 3, 2013, Trans Union informed Marcinski that RBS Citizens verified the account belonged to him and it would remain in his credit record.

35. RBS Citizens violated 15 U.S.C. § 1681s-2(b)(1)(A) by failing to conduct an adequate investigation of Marcinski's dispute submitted to Trans Union for investigation on August 15, 2013.

36. RBS Citizens violated 15 U.S.C. § 1681s-2(b)(1)(C) by reporting inaccurate, incomplete, false, and misleading results of its purported investigation of Marcinski's dispute submitted

to Trans Union for investigation on August 15, 2013.

37. RBS Citizens violated 15 U.S.C. § 1681s-2(b)(1)(D) by failing to notify Trans Union, in response to Marcinski's dispute submitted to Trans Union for investigation on August 15, 2013, that the information it reported for inclusion in his credit report was inaccurate, incomplete, misleading, and false.

38. The conduct of RBS was willful, in that it was part of a policy, practice, and custom.

39. As a direct and proximate result of the unlawful conduct of RBS Citizens, Marcinski suffered damages, including damage to credit score and credit reputation, harrassment, humiliation, emotional distress, and financial loss.

WHEREFORE, Marcinski respectfully moves for Judgment in his favor and against RBS Citizens including the following:

A. Actual damages in an amount determined at trial pursuant to 15 U.S.C. § 1681n(a)(1)(A) or, in the alternative, 15 U.S.C. § 1681o(a)(1);

B. Punitive damages in an amount determined at trial pursuant to 15 U.S.C. § 1681n(a)(2);

C. Attorney's fees and costs incurred pursuant to 15 U.S.C. § 1681n(a)(3) and/or 15 U.S.C. § 1681o(a)(2); and

D. Any further relief the Court may deem just and proper under the circumstances.

#### **COUNT IV - MERRICK BANK CORPORATION**

40. On August 6, 2013, Marcinski obtained a copy of his credit report from Trans Union, LLC ("Trans Union"), a national credit reporting agency.

41. The aforesaid credit report includes a delinquent credit card account reported by Merrick.

42. Marcinski has never applied for, obtained, or used any credit card account issued by Merrick.

43. On August 15, 2013, Marcinski transmitted a request for investigation to Trans Union disputing the debt reported by Merrick on the basis that it was a fraudulent account established using his personal identification information without authorization. Marcinski included documentation of his identity and the fact that he was incarcerated when the account was opened and used.

44. Upon information and belief, Trans Union provided all information relevant to Marcinski's dispute to Merrick.

45. On September 3, 2013, Trans Union informed Marcinski that Merrick verified the account belonged to him and it would remain in his credit record.

46. Merrick violated 15 U.S.C. § 1681s-2(b)(1)(A) by failing to conduct an adequate investigation of Marcinski's dispute submitted to Trans Union for investigation on August 15, 2013.

47. Merrick violated 15 U.S.C. § 1681s-2(b)(1)(C) by reporting inaccurate, incomplete, false, and misleading results of its purported investigation of Marcinski's dispute submitted to Trans Union for investigation on August 15, 2013.

48. Merrick violated 15 U.S.C. § 1681s-2(b)(1)(D) by failing to notify Trans Union, in response to Marcinski's dispute submitted to Trans Union for investigation on August 15, 2013,



that the information it reported for inclusion in his credit report was inaccurate, incomplete, misleading, and false.

49. The conduct of Merrick was willful, in that it was part of a policy, practice, and custom.

50. As a direct and proximate result of the unlawful conduct of Merrick, Marcinski suffered damages, including damage to credit score, credit reputation, harrassment, humiliation, emotional distress, and financial loss.

WHEREFORE, Marcinski respectfully moves for Judgment in his favor and against Merrick including the following:

A. Actual damages in an amount determined at trial pursuant to 15 U.S.C. § 1681n(a)(1)(A) or, in the alternative, 15 U.S.C. § 1681o(a)(1);

B. Punitive damages in an amount determined at trial pursuant to 15 U.S.C. § 1681n(a)(2);

C. Attorney's fees and costs incurred pursuant to 15 U.S.C. § 1681n(a)(3) and/or 15 U.S.C. § 1681o(a)(2); and

D. Any further relief the Court may deem just and proper under the circumstances.

Dated: Otisville, New York  
November 18, 2013



GREGORY J. MARCINSKI  
Register No. 12582-050  
Federal Correctional Institution  
P.O. Box 1000  
Otisville, NY 10963-1000  
Plaintiff, pro se

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

GREGORY J. MARCINSKI,

(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)

13 Civ. 6022 (LGS) (  )

- against -

RBS CITIZENS BANK, N.A. and

MERRICK BANK CORPORATION,

**AFFIRMATION OF SERVICE**

(In the space above enter the full name(s) of the defendant(s)/respondent(s).)

I, Gregory J. Marcinski, declare under penalty of perjury that I have  
(name)

served a copy of the attached Amended Complaint

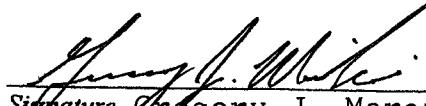
(document you are serving)

upon Geraldine Cheverko  
Attorney for the Defendants whose address is                       
(name of person served)

Eckert Seamans Chernin & Mellot, LLC  
10 Bank Street, Suite 700, White Plains, NY 10606  
(where you served document)

by first-class mail and will receive Notice of Electronic Filing  
(how you served document: For example personal delivery, mail, overnight express, etc.)

Dated: Otisville, NY  
(town/city) (state)  
November 19 2013  
(month) (d.y) (year)

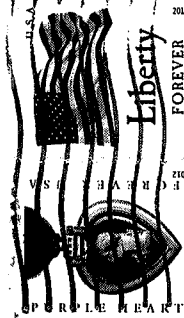
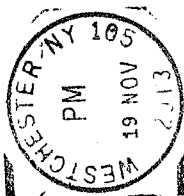
  
Signature Gregory J. Marcinski  
Register No. 12582-050

Address  
Federal Correctional Institution  
P.O. Box 1000  
City, State

Otisville, NY 10963-1000  
Zip Code

Plaintiff, pro se

~~XXXXXXXXXX~~



NAME GREG MARCINSKI

REGISTER NO. 12-582-050

FEDERAL CORRECTIONAL INSTITUTION

P.O. BOX 1000

OTISVILLE, NY 10963

12582-050

U S District Court  
Pro Se Office  
500 Pearl ST  
Room 230  
NEW YORK, NY 10007  
United States

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